

Message Text

UNCLASSIFIED

PAGE 01 BUENOS 05168 052203Z
ACTION EB-08

INFO OCT-01 ARA-14 ISO-00 CAB-05 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 FMC-02
CG-00 DLOS-09 OES-07 /059 W
-----025026 061040Z /17

R 052030Z JUL 78
FM AMEMBASSY BUENOS AIRES
TO SECSTATE WASHDC 6375

UNCLAS BUENOS AIRES 5168

E.O. 11652: N/A
TAGS: EGEN, ETRW, EWWT, EAIR, AR
SUBJECT: PROPOSED AGREEMENT ELIMINATING DOUBLE TAXATION OF
AIR AND MARITIME TRANSPORT COMPANY REVENUES

REF: 77 STATE 201956

1. THE EMBASSY HAS RECEIVED A DRAFT AGREEMENT SUBMITTED BY THE ARGENTINE GOVERNMENT TO RESOLVE THE DOUBLE TAXATION PROBLEM INCURRED BY AMERICAN MARITIME AND AIR TRANSPORT COMPANIES. THE CONTENTS OF THE AGREEMENT ARE SOMEWHAT DIFFERENT THAN THOSE PROPOSED IN THE EMBASSY'S DIPLOMATIC NOTE NO.368 OF SEPTEMBER 21, 1977, WHICH WAS BASED ON REFTEL CONTENTS. THE MAIN DIFFERENCES ARE THAT THIS DRAFT PROPOSES THAT THE AGREEMENT BE RETROACTIVE TO JULY 20, 1950 AND CONSEQUENTLY WILL SUPERSEDE THE ORIGINAL AGREEMENT. IN ADDITION, THE GOA HAS PROPOSED THAT THE INCOME RESULTING FROM RENTS OF CONTAINERS NOT BE INCLUDED IN THE EXEMPTION FROM DOUBLE TAXATION UNTIL A STUDY HAS BEEN UNDERTAKEN TO FIND OUT WHICH TYPES OF CONTAINERS QUALIFY EXCLUSIVELY FOR TRANSPORTING AIR AND MARITIME CARGO AND WHICH ONES DO NOT. ALSO, RATHER THAN SPECIFYING THE PROHIBITION OF SPECIFIC MUNICIPAL TAXES, THE AGREEMENT BANS THE IMPOSITION OF ALL TAXES.

UNCLASSIFIED

PAGE 02 BUENOS 05168 052203Z

2. LAWYERS FOR MOORE-MCCORMACK, ONE OF THE COMPANIES AFFECTED IN THE PAST BY ARGENTINE TAXES, ARE SATISFIED WITH THE CONTENTS OF THE AGREEMENT. THE EMBASSY REQUESTS THAT THE OFFICE OF THE LEGAL ADVISOR EVALUATE IT AND DETERMINE WHETHER ANY MODIFICATIONS ARE NEEDED.

3. THE CONTENTS OF THE AGREEMENT FOLLOWS:

QUOTE ARTICLE 1: ON THE BASIS OF RECIPROCITY THE GOVERNMENT OF THE ARGENTINE REPUBLIC COMMITS ITSELF TO EXEMPT THE INCOME OR PROFITS OF US COMPANIES ORIGINATING IN THE INTERNATIONAL MARITIME OR AIR TRANSPORT BUSINESS FROM ALL TAXES, AS WELL AS FROM TAXES ON CAPITAL AND ASSETS RELATING TO SAID ACTIVITIES, AND FROM THOSE LEVIES OR TAXES ON GROSS INCOME OF US COMPANIES WITHIN THE JURISDICTION OF THE CITY OF BUENOS AIRES, NATIONAL TERRITORY OF TIERRA DEL FUEGO, ANTARCTIC AND ISLANDS OF THE SOUTH ATLANTICO.

ARTICLE 2: ON THE BASIS OF RECIPROCITY, THE GOVERNMENT OF THE UNITED STATES OF AMERICA COMMITS ITSELF TO EXEMPT THE INCOME OR PROFITS OF ARGENTINE COMPANIES ORIGINATING IN THE INTERNATIONAL MARITIME OR AIR TRANSPORT BUSINESS FROM ALL TAXES ACCORDING TO SECTIONS 872 (B) AND 883 (A) OF ITS INTERNAL REVENUE CODE OF 1954, AND FROM ANY TAX THAT MAY BE APPLIED IN THE FUTURE, ON AN ANALOGOUS OR SIMILAR BASIS TO THE ASSETS OR MUNICIPAL TAXES REFERRED TO IN ARTICLE 1, WHICH WILL BE IN EFFECT IN THE ARGENTINE REPUBLIC ON THE DATE THE PRESENT AGREEMENT ENTERS INTO FORCE IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN ARTICLE 5.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 BUENOS 05168 052203Z

ARTICLE 3: A) THE PHRASE "U.S. COMPANIES" USED IN ARTICLE 1, MEANS: THE GOVERNMENT OF THE UNITED STATES OF AMERICA, ANY PERSON OF JURIDICAL OR REAL EXISTENCE AND RESIDENT IN THE UNITED STATES FOR THE PURPOSES OF U.S. TAXES BUT NOT A RESIDENT OF THE ARGENTINE REPUBLIC FOR THE PURPOSES OF ARGENTINE TAXES. B) THE PHRASE "ARGENTINE COMPANIES" USED IN ARTICLE 2, MEANS: THE GOVERNMENT OF THE ARGENTINE REPUBLIC, ANY PERSON OF JURIDICAL OR REAL EXISTENCE (INCLUDING ANY UNDIVIDED ESTATE WHILE IT IS BEING CONSIDERED AS AN INDIVIDUAL OF REAL EXISTENCE, FOR THE PURPOSES OF ARGENTINE TAXES, I.E., AS LONG AS THERE IS NO DECLARATION OF HEIRS, OR THAT THE WILL FULFILLING THE SAME PURPOSE HAS NOT BEEN DECLARED VALID) AND RESIDENT IN THE ARGENTINE REPUBLIC FOR THE PURPOSES OF ARGENTINE TAXES, BUT NOT A RESIDENT IN THE UNITED STATES OF AMERICA FOR THE PURPOSES OF U.S. TAXES. C) THE PHRASE "INTERNATIONAL MARITIME OR AIR TRANSPORT BUSINESS" USED IN ARTICLES 1 AND 2, MEANS: THE BUSINESS OF TRANSPORTING INDIVIDUALS OR EFFECTS, PERFORMED BY THE OWNERS OF CHARTERERS OF SHIPS OR AIRCRAFT BETWEEN BOTH COUNTRIES OR BETWEEN ONE OF

THEM AND A THIRD COUNTRY. D) INCLUDED IN THE PROFITS MENTIONED IN ARTICLES 1A AND 2, IS THE RENTAL OR INCOME OBTAINED FROM THE LEASING OF A SHIP OR AIRCRAFT FOR THE INTERNATIONAL MARITIME OR AIR TRAFFIC BUSINESS.

ARTICLE 4: THE PRESENT AGREEMENT WILL BE APPLIED RETROACTIVELY AS OF JULY 20, 1950, AND WILL SUPERSEDE THE LETTERS OF EXCHANGE AGREEMENT SIGNED ON THE SAME DATE, IN ORDER TO ELIMINATE THE DOUBLE TAXATION OF PROFITS RESULTING FROM MARITIME AND AIR TRANSPORTATION.

ARTICLE 5: THE PRESENT AGREEMENT WILL ENTER INTO FORCE WHEN BOTH CONTRACTING PARTIES COMMUNICATE THEIR RESPECTIVE APPROVAL IN ACCORDANCE WITH THEIR UNCLASSIFIED

UNCLASSIFIED

PAGE 04 BUENOS 05168 052203Z

INTERNAL REGULATIONS, AND WILL BE IN EFFECT WITH REGARD TO THE ASSETS AND MUNICIPAL TAXES THROUGH THE LAST FULL FISCAL YEAR IN FORCE.

ARTICLE 6: THIS AGREEMENT CAN BE RENOUNCED AT ANY MOMENT BY MEANS OF A SIX-MONTH (6) ADVANCE NOTICE, AND IT WILL LAPSE ON THE JANUARY 1ST FOLLOWING THE DATE OF RENUNCIATION. UNQUOTE.

CASTRO

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, MARINE TRANSPORTATION, AIR TRANSPORTATION, DOUBLE TAXATION
Control Number: n/a
Copy: SINGLE
Draft Date: 05 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BUENOS05168
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780277-0198
Format: TEL
From: BUENOS AIRES
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780796/aaaadcyl.tel
Line Count: 144
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: b717fc7a-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 STATE 201956
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2119037
Secure: OPEN
Status: NATIVE
Subject: PROPOSED AGREEMENT ELIMINATING DOUBLE TAXATION OF AIR AND MARITIME TRANSPORT COMPANY REVENUES
TAGS: EGEN, ETRN, EWWT, EAIR, AR, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/b717fc7a-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014